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8	BEFORE THE BOARD OF PODIATRIC MEDICINE		
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA		
10	SIAIR OF CARLFORNIA		
11	In the Matter of the Accusation Against:) NO.	D-3966
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13	DENNIS C. BREWSTER, D.P.M.) ACCUSATION 428 South Sierra Bonita) Pasadena, CA 91106) Doctor of Podiatric Medicine)		
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15	License No. E-2376,)	
16	Respondent.) }	
17)	
18	Complainant Carol Sigmann alleges as follows:		
19	1. She is Executive Officer of the Board of Podiatric		
20	Medicine (hereinafter the "board"), Department of Consumer		
21	Affairs, State of California, and makes and files this accusation		
22	solely in her official capacity.		
23	2. On or about November 21, 1978, Dennis C. Brewster		
24	(hereinafter "respondent") was issued license number E-2376 as a		
25	Doctor of Podiatric Medicine. Said license has since been in		
26	full force and effect.		
27	3. Pursuant to sections 2	2222 and	2497(a) of the

 Business and Professions Code, the board may suspend, revoke or impose probationary conditions upon a certificate to practice podiatric medicine for any of the causes set forth in article 12 cf chapter 5 of division 2 of the Business and Professions Code (hereinafter the "code").

- 4. Section 2497(a) in conjunction with section 2234 of the code provides that it is cause for discipline to engage in unprofessional conduct in the practice of podiatric medicine.
- 5. Section 2234 of the code further defines unprofessional conduct as including but not being limited to:
 - "(b) Gross negligence.
 - "(c) Repeated negligent acts.
 - "(d) Incompetence.
 - "(e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a [podiatrist]."
- 6. Section 810(a) of the code further provides that it is unprofessional conduct to:
 - "1. Knowingly present or cause to be presented any false or fraudulent claim for the payment of a loss under a contract of insurance.
 - "2. Knowingly prepare, make, or subscribe any writing, with intent to present or use the same, or to allow it to be presented or used in support of any such claim."
- 7. Respondent is subject to discipline as more particularly described below:

8. MARVIN C. $\frac{1}{2}$

A. On or about March 2, 1982, respondent undertook the care and treatment of Marvin C., a 72-year old man complaining of hammer toes of the left foot involving toes two, three, four and five. On or about March 3, 1982, respondent performed surgery on the patient's left foot, including implantation of an artificial joint in the first toe.

B. Respondent's care and treatment of Marvin C. was unprofessional, grossly negligent, repeatedly negligent and dishonest within the meaning of sections 2234 and 2234 (b), (c) and (e) of the code, in that he misrepresented the nature of the surgery by implanting an artificial joint in the first toe of the patient's left foot without having obtained the patient's informed consent.

9. CLARA SUE C.

A. On or about June 28, 1982, respondent undertook the care and treatment of Clara Sue C., a 67-year old woman complaining of bunions and calluses on both feet. On or about August 27, 1982, respondent performed multiple surgical procedures on both of the patient's feet, including bunionectomies.

B. Respondent's care and treatment of Clara Sue C. was unprofessional, grossly negligent, repeatedly

^{1.} The full identity of the patients referenced herein will be disclosed pursuant to an appropriate discovery request.

negligent, incompetent, and dishonest within the meaning of sections 2234 and 2234 (b), (c), (d) and (e) of the code in that:

- He failed to perform or document a physical examination, failed to take or document the patient's history, and failed to document the reasons for the multiple surgical procedures.
- (2) He misrepresented the nature of the surgery by performing multiple surgical procedures on the patient without having obtained the patient's informed consent thereto.
- Respondent engaged in acts of unprofessional conduct, gross negligence, dishonesty, corruption, and insurance fraud within the meaning of sections 2234 and 2234 (b) and (e) and 810(a), in that he billed the Occidental Life Insurance Company of California for osteotomies of the second metatarsals of both feet when no such surgery was performed.

10. KATHERINE S.

- In or about October 1982, respondent undertook the care and treatment of Katherine S., a 73-year old woman seeking treatment of a callous on the bottom of her left foot. In or about October 1982, respondent performed surgery on Katherine S.'s left foot which he described as a Keller bunionectomy and excision of a neuroma.
 - Respondent's care and treatment of Katherine

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S. was unprofessional, grossly negligent and repeatedly negligent within the meaning of sections 2234 and 2234 (b) and (c) of the code, in that there was no pre-operative evaluation justifying the surgery that was performed, nor was the patient's informed consent for the surgery obtained.

11. JANET K.

A. On or about March 16, 1983, respondent undertook the care and treatment of Janet K., a 25-year old woman complaining of bunions of both feet. On or about April 6, 1983, respondent performed an Austintype bunionectomy and a closing wedge osteotomy of both feet after telling the patient he could treat her without breaking bones, and that she could return to work within two days of the surgery.

- B. Respondent's care and treatment of Janet K.
 was unprofessional, grossly negligent, repeatedly
 negligent, incompetent, and dishonest within the
 meaning of sections 2234 and 2234 (b), (c) (d) and (e)
 of the code in that:
- (1) He fractured bones of the patient's feet after misrepresenting to her the severity of the procedure and without first having obtained the patient's informed consent thereto.
- (2) He performed a bone destructive surgical procedure without adequate evidence of medical necessity.

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He failed to adequately fixate the unstable fractures and failed to identify and remediate the bone instability. He misled the patient as to her condition and failed to follow up on her care.

12. SUSAN D.

- On or about April 16, 1984, respondent undertook the care and treatment of Susan D., a 46-year old woman complaining of corns and calluses on both feet. On or about April 27, 1984, respondent performed multiple surgical procedures on the patient's feet, including "Brewster slide" osteotomies of the lesser metatarsals.
- Respondent's care and treatment of Susan D. was unprofessional, grossly negligent, repeatedly negligent, incompetent, and dishonest within the meaning of sections 2234 and 2234 (b), (c), (d), and (e) of the code in that:
- (1) He misrepresented the nature of the surgery by performing multiple surgical procedures on the patient which included the breaking of bones without having obtained the patient's informed consent thereto.
- (2) He performed "Brewster slide" osteotomies, which is not an acceptable method of performing the procedures
- He failed to adequately document his diagnosis and treatment.

13. BARBARA L.

A. On or about May 8, 1984, respondent undertook the care and treatment of Barbara L., a 33-year old woman seeking removal of warts from her right foot via laser surgery. On or about June 8, 1984, respondent performed surgery on Barbara L.'s right foot and thereafter prescribed antibiotics.

- B. Respondent's care and treatment of Barbara L. was unprofessional, grossly negligent, repeatedly negligent, incompetent and dishonest within the meaning of sections 2234 and 2234 (b), (c), (d) and (e) of the code in that:
- (1) He prescribed antibiotics to which the patient was allergic.
- (2) He represented to the patient that he would use laser surgery to remove the warts when in fact he used non-laser surgical procedures.

14. MARIE S.

- A. On or about June 20, 1984, respondent undertook the care and treatment of Marie S., a 57-year old female seeking treatment for calluses. On or about June 23, 1984, respondent performed multiple surgical procedures on the patient's feet, including "slide" osteotomies.
- B. On or about September 4, 1984, Marie S. returned to respondent for the care and treatment of an injured left foot. On or about September 24, 1984,

respondent performed surgery on the patient's left foot which he described as a Keller bunionectomy with Swanson implant. On or about March 9, 1985, respondent performed further multiple surgeries on the patient's feet.

- C. Respondent's care and treatment of Marie S. was unprofessional, grossly negligent, repeatedly negligent and incompetent within the meaning of sections 2234 and 2234 (b), (c) and (d) of the code in that:
- (1) He performed "Brewster slide" osteotomies which is not an acceptable method of performing the procedure.
- (2) He performed joint replacement arthroplasty without adequate indication and without first trying more conservative treatment.
- (3) His medical records fail to adequately document pre- and post-operative evaluations.

15. NANCY B.

A. On or about January 7, 1985, respondent undertook the care and treatment of Nancy B., a 63-year old woman seeking treatment for a bunion on her left foot. On or about January 11, 1985, respondent performed surgery on the patient's left foot which included a bunion ectomy, and on March 15, 1985, respondent performed further surgery on the patient's left foot which included an osteotomy and placement of

- B. Respondent's care and treatment of Nancy B. was grossly negligent, repeatedly negligent and incompetent within the meaning of sections 2234 and 2234 (b), (c) and (d) of the code in that:
- (1) He failed to document the patient's history and physical condition and to document the reason or need for the second surgery.
- (2) He allowed a non- "bone buried" wire to remain in the patient's foot in spite of her complaints of chronic pain, thereby necessitating further surgery.
- (3) He employed ultrasound to treat the patient's foot while she had the K-wire in her foot.

16. SHIRLEY N.

- A. On or about September 16, 1985, respondent undertook the care and treatment of Shirley N., a 51-year old female whose primary complaint was chronic heel pain of both feet. She also inquired about bumps on the tops of both feet. On or about October 9, 1985, respondent performed surgery on Shirley N.'s feet.
- B. Respondent's care and treatment of Shirley N. was unprofessional, grossly negligent and repeatedly negligent and incompetent within the meaning of sections 2234 and 2234 (b),(c) and (d) of the code in that:
- (1) He failed to adequately document a preoperative work up, failed to identify the pathology

for which he was treating the patient, and failed to adequately document the patient's post-operative status, concerns, treatment or prognosis.

- (2) He surgically treated the patient's secondary malady but failed to treat her primary complaint (heel pain), and did so without having obtained the patient's informed consent.
- (3) He failed to identify and treat a major foot bone fracture in the patient's left foot.

17. DOREEN M.

- A. On or about February 16, 1987, respondent undertook the care and treatment of Doreen M., a 26-year old female seeking treatment of corns on the fifth toe of both feet. On or about February 27, 1987, respondent performed surgery on Doreen M.'s feet. A post-surgical infection ensued.
- B. Respondent's care and treatment of Doreen M. was unprofessional, grossly negligent, repeatedly negligent and incompetent within the meaning of sections 2234 and 2234 (b), (c) and (d) of the code in that:
- (1) He performed the surgery in unsanitary surroundings and without first cleansing the patient's feet.
- (2) He failed to properly evaluate, culture, and treat the post-surgical infection.
 - (3) The surgical procedure he performed was

not as described in his operative report. 1 2 WHEREFORE, complainant prays that a hearing be held, and that following said hearing, a decision issue: 3 Suspending or revoking doctor of podiatric medicine 4 1. license number E-2376 heretofore issued to respondent. 5 Directing respondent, pursuant to section 2497.5 of 2. 6 the code, to pay to the board the actual and reasonable costs of 7 the investigation and prosecution of the case. 8 Taking such further action as is appropriate. 9 3. 10 DATED: May 12 , 1989. 11 12 mesen 13 CAROL SIGMANN Executive Officer 14 Board of Podiatric Medicine Board of Medical Quality Insurance 15 Department of Consumer Affairs State of California 16 17 Complainant 18 19 20 21 22 c: Brewster 23 03576110-LA88AD1107 24 25 26